

Certification under 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with The United States Postal Service with sufficient postage as first class mail in an envelope addressed to The Commissioner for Patents, Washington, D.C. 20231 on March 25, 2003.

Brian W. Hameder
Name

Brian W. Hameder
Signature

DOCKET: CU-2882

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT: John LOVE et al)
SERIAL NO: 10/089,276) Group Art Unit:
TITLE: SINGLE MODE OPTICAL WAVEGUIDE FIBRE)
COMPLETION OF PCT/AU00/00919 filed August 2, 2000)

The Commissioner for Patents
Box PCT
Washington, D.C. 20231
Attention: PCT Legal Office

RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42

Dear Sir:

This is in response to the Decision mailed January 28, 2003, a copy of which is attached.

It is respectfully submitted that the four Declarations submitted on behalf of joint inventors John Love, David Thorncraft, Ronald Bailey, Simon Fleming, Mark Sceats, Leon Poladian, Thomas Ryan and Peter Krug only consisted of six pages. The added page 7 was not included in these Declarations as the information regarding the executrix was not available at the time of submitting the documents to the aforesaid inventors for signature. Unfortunately however the page numbering thereon was not corrected.

Only the Declaration executed by Jane Large as executrix on behalf of Michael Large included the added page 7 for her signature.

Accordingly, it is believed that the five Declarations submitted on July 18, 2002 meet formality requirements of the Office.

Respectfully submitted,

March 25, 2003

Date

/45

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3-28-03

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In re Application of
Love et al.
Application No. 10/089,276
PCT No.: PCT/AU00/00919
Int. Filing Date: 02 August 2000
Priority Date: 30 September 1999
Atty. Docket No.: CU-2882 RJS
For: Single Mode Optical
Waveguide Fibre

DECISION ON
PAPERS UNDER
37 CFR 1.42

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This is in response to the papers filed on 18 July 2002, which are being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 02 August 2000, and claimed a priority date of 30 September 1999. The International Bureau transmitted a copy of the published international application to the USPTO on 05 April 2001. A Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 30 month time period to file the basic national fee in the U.S. expired as of midnight on 30 March 2002.

On 27 March 2002, applicants filed *inter alia* the required basic national fee, but did not file an executed oath or declaration of the inventors.

On 13 June 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

The instant papers were filed on 18 July 2002.

DISCUSSION

Inspection of the declaration reveals that it has been signed by Jane Large, as "executor(trix) of the last will and testament of" deceased joint inventor Michael Large. 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration.

declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Former § 1.44 required that proof of the authority of the legal representative be submitted. Effective 08 September 2000, § 1.44 was removed and reserved. The requirement to submit proof of legal authority was thereby eliminated. Thus, the signature and accompanying identification of the legal representative is sufficient to establish that the legal representative may make application on behalf of the deceased inventor.

Review of the copy of the declaration filed on 03 June 2002 reveals that it is unclear whether joint inventors John Love, David Thorncraft, Ronald Bailey, Simon Fleming, Mark Sceats, Leon Poladian, Thomas Ryan and Peter Krug signed complete declarations, since the declarations bearing their signatures do not include page 7 of 7.

DECISION

The papers under 37 CFR 1.42 are ACCEPTED.

Applicants are required to file a proper response within **TWO (2) MONTHS**, including a new oath or declaration of the inventors and/or an explanation of whether "page 7 of 7" was in fact missing as discussed above. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely reply will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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